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NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA)	
)	COUNTY OF MOORE
vs.)	
)	18 CRS 50513-14
LEE MARVIN HARRIS, SR.,)	
Defendant.)	
_____)	

TRANSCRIPT OF BOND HEARING
Pages 1 through 16
July 10, 2018

Honorable JAMES M. WEBB, Judge Presiding

APPEARANCES:

WARREN MCSWEENEY
Assistant District Attorney
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On behalf of the State
PETER BROWNBAC, Attorney at Law
235 E. Pennsylvania Ave
Southern Pines, NC 28387
910-695-7030
On behalf of the Defendant Harris, Sr.

1 (These proceedings commenced at 10:24 a.m. on
2 July 10, 2018. The defendant present with
3 counsel.)

10:24:03 4 MR. MCSWEENEY: Ma'am Sheriff, if you could bring
5 out Mr. Lee Marvin Harris, Sr., please?

10:24:07 6 THE COURT: Lee Marvin Harris, Sr.?

10:24:49 7 MR. MCSWEENEY: Yes, sir. He's being brought out
8 from the holding cell.

10:24:52 9 THE COURT: For what purpose?

10:24:54 10 MR. MCSWEENEY: Your Honor, as we mentioned earlier,
11 to readdress his pretrial conditions of release.

10:25:01 12 THE COURT: Somebody wrote on my calendar V.D. I
13 assume that stands for voluntary dismissal?

10:25:08 14 MR. MCSWEENEY: That is -- Judge, Your Honor that,
15 is -- yes, matters --

10:25:11 16 MR. BROWBACK: I'll take that, Judge.

10:25:12 17 MR. MCSWEENEY: Outside 157 through 161 have been
18 dismissed, and those are Lee Marvin Harris, Jr.

10:25:21 19 THE COURT: Well, no, 162 through 163 got V.D.s.

10:25:27 20 MR. MCSWEENEY: Your Honor, I'm not disputing what
21 it says on your calendar.

10:25:30 22 THE COURT: I don't know whose mark that is, but you
23 say that's an error; is that right?

10:25:34 24 MR. MCSWEENEY: That is an error, Your Honor.

10:25:35 25 THE COURT: Well, I'll strike through the V.D.s.

10:26:00 1 All right. What's his current bond? Last time
2 I --

10:26:03 3 MR. MCSWEENEY: Your Honor, I believe that you set
4 his bond --

10:26:08 5 MR. BROWNBAC: On May 1st you reduced the bond to
6 \$500,000, Judge.

10:26:12 7 THE COURT: With additional conditions?

10:26:14 8 MR. BROWNBAC: No contact with the codefendants.

10:26:18 9 THE COURT: All right. Does he have family here
10 today like he did the last time?

10:26:23 11 MR. BROWNBAC: He does. He has his brother, raise
12 your hand, and his wife, Ms. Valerie. Raise your hand.

10:26:29 13 THE COURT: All right. He couldn't make that,
14 although there was some thought that he could?

10:26:33 15 MR. BROWNBAC: He is just unable to make that,
16 Judge. His wife is employed with the Moore County school
17 system. He is disabled. He receives social security and
18 some money from the military because he is a veteran of the
19 armed services, Your Honor.

10:26:46 20 Judge, we still -- I was appointed on February
21 the 22nd. We filed for discovery request on February the
22 27th. He was indicted on March the 5th. I still don't have
23 any other information about this case, Judge. I have no
24 discovery. I have nothing.

10:27:04 25 Your Honor, there were three codefendants in

1 this matter, and it's my understanding that they have been
2 indicted and taken into federal custody, which is why Junior
3 has V.D. written beside him on the calendar today.

10:27:18

4 I don't know what information was given to the
5 feds for their investigation, but I find it telling that the
6 feds pick up three of the codefendants and leave two. They
7 have done nothing with my client.

10:27:32

8 I'm unable to obtain any further information.
9 I don't know how the federal government made a determination
10 of who was more culpable because if the federal government
11 had determined that Mr. Harris had some culpability, I think
12 they would have swept him up as well. They did not do that.

10:28:02

13 Your Honor, we need a reasonable bond that he
14 can make. He is not a flight risk. He has been a member of
15 the Moore County community his entire life. His wife, his
16 brothers, he has had multiple family members present and who
17 have resided here. He's resided on Sycamore Street in
18 Aberdeen for years and years and years. He has no place to
19 go. Unlike the written determination that he's a flight
20 risk, that's absurd.

10:28:29

21 THE COURT: What is the status of the codefendants
22 other than the United States government choosing to prosecute
23 them?

10:28:35

24 MR. BROWBACK: I have no idea, Judge.

10:28:37

25 THE COURT: Do you know if they made bond before the

1 United States government decided to prosecute them?

10:28:41 2 MR. BROWNBAC: I don't know, Judge.

10:28:42 3 THE COURT: Well, can you -- what bond do you say
4 your client may be able to make?

10:28:55 5 MR. BROWNBAC: Your Honor, the only asset that he
6 has is the real property located on Sycamore Street, and
7 there's -- he doesn't own that outright.

10:29:08 8 THE COURT: Who does?

10:29:11 9 MR. BROWNBAC: Wells Fargo. He just doesn't have
10 access to funds, Judge.

10:29:19 11 THE COURT: Does he have any equity in the house?

10:29:31 12 MR. BROWNBAC: Your Honor, Ms. Becky Carlson, now
13 Smith, said that she does have some electronic house arrest
14 anklets I think have been made available to her. I believe
15 she said that the cost of that was \$225 per month. If the
16 Court would consider that kind of option, I'd prefer it if we
17 could lower the bond to something he can get a bondsman to
18 make a bond for, but if the Court would consider releasing
19 him and seeing if we can get some type of electronic house
20 arrest.

10:30:04 21 THE COURT: Anything further you wish to say at this
22 time?

10:30:08 23 MR. BROWNBAC: Judge, four months, no information.
24 Why are we holding him? You know, they put out press
25 releases the day that he was arrested, and all that went out.

10:30:17

1

THE COURT: Well, wait a minute. This Court didn't
2 put out any press releases.

10:30:21

3

MR. BROWNBAC: Law enforcement put out press
4 releases the day he was arrested, and that's the only
5 information I've gotten about what he's charged with. I have
6 nothing else.

10:30:29

7

THE COURT: Haven't read the search warrant?

10:30:30

8

MR. BROWNBAC: I have the search warrant, Judge.
9 We went over that the last time, and the lack of my client
10 being mentioned anywhere in that search warrant, not
11 surveilled, not seen with anything.

10:30:40

12

Your Honor, the Court on its own called up the
13 investigating officer and asked for the best evidence that
14 the investigating officer had. The officer said, I believe,
15 I'm not sure, but I believe that he said that he observed the
16 defendant driving a vehicle that was on the property that was
17 searched.

10:30:59

18

But I haven't seen any other evidence much less
19 best evidence.

10:31:03

20

THE COURT: Let's see what the State has to say.

10:31:06

21

MR. MCSWEENEY: Your Honor, State would ask, as we
22 did at the prior session, that the bond remain the same.

10:31:10

23

Your Honor, the three of the codefendants have
24 been indicted by the federal government in their initial
25 round of indictments.

10:31:20

1 THE COURT: Remind the Court what their relationship
2 is to the defendant, if any.

10:31:23

3 MR. MCSWEENEY: Your Honor, one of the defendants,
4 Lee Marvin Harris, Jr., is the son of the defendant.
5 Mr. Lamar Seally and Christian Terry, I don't believe they
6 are of any family relation to this defendant.

10:31:43

7 There was one other codefendant that was not
8 from Moore County who has been indicted. I've been going
9 back and forth with the U.S. Attorney's office. It is my
10 understanding that they are not done with -- with indictments
11 in this matter as far as additional charges, and even
12 additional defendants.

10:32:13

13 Spoke with Detective Perry --

10:32:19

14 THE COURT: Who is present?

10:32:20

15 MR. MCSWEENEY: He is present, Your Honor. There
16 might be some additional charges or potential federal charges
17 based on phone conversations between this defendant and other
18 family members in regarding the evidence that was located at
19 his residence on Sycamore Drive in Aberdeen, or Sycamore
20 Street, based on some statements and some recorded phone
21 calls regarding evidence that was located at his residence.

10:32:55

22 Your Honor, I do want to clarify one thing that
23 Mr. Brownback referenced to the State did argue in the first
24 motion for bond. I incorrectly told the Court that this
25 defendant had been seen driving a vehicle that's mentioned in

1 the search warrant, and that was located at the defendant's
2 property where approximately 88 grams of powdered cocaine was
3 located inside the vehicle. Again, the vehicle was
4 registered to this defendant. The keys were located inside
5 the residence where the vehicle was located, again, at the
6 defendant's residence.

10:33:36

7 I incorrectly stated that the defendant had
8 been seen driving that vehicle. That was -- that was not
9 correct, Your Honor, so I want to make sure I clarified that,
10 that that was not anything that law enforcement had told me.

10:33:50

11 I misinterpreted or misunderstood what the
12 officers had told me, but they in no way had said they had
13 seen the defendant driving a particular Cadillac that's in
14 question.

10:34:01

15 It is my understanding that that vehicle might
16 not be operational, but I want to make sure I clarified that
17 to the Court, but nevertheless, it was a vehicle that was
18 located on the property.

10:34:13

19 THE COURT: Of the defendant?

10:34:14

20 MR. MCSWEENEY: Of the defendant.

10:34:15

21 THE COURT: Where a trafficking amount of cocaine
22 was seized?

10:34:18

23 MR. MCSWEENEY: Yes, Your Honor, but wanted to make
24 sure I made sure that the Court, that the statement I made
25 that they had seen him driving in that vehicle was not

1 correct.

10:34:29

2 Your Honor, the State would ask -- the State
3 does realize, and I've had multiple conversations with the
4 U.S. Attorney's office and with the Southern Pines Police
5 Department regarding the discovery in this case, the
6 defendant, all the defendants have been in custody since I
7 believe February 20th of this year.

10:34:50

8 Your Honor, we would ask the bond to remain the
9 same. As I mentioned at the prior hearing, the defendant
10 does not have any prior record absent very minor traffic
11 infractions.

10:35:03

12 If Your Honor, and I believe Your Honor did
13 when you modified the codefendants' bonds, you did include a
14 provision that they be subject to electronic house arrest. I
15 don't believe that condition was made by Your Honor with
16 respect to this defendant.

10:35:22

17 If Your Honor is inclined to modify the bond we
18 would ask at the very least the defendant be subject to a
19 curfew and through electronic house arrest. Ms. Cameron,
20 Becky Cameron did mention to me yesterday that she does have
21 the ability to use house arrest bracelets or monitoring. I
22 don't know the logistics of it, Your Honor, and I believe the
23 fee that Mr. Brownback mentioned, \$225 a month, that seems to
24 be what she told me it was.

10:35:54

25 So we would ask at a minimum to be subject to

1 curfew, no contact with codefendants, including his son
2 should his son make bond, and subject to some form of
3 electronic house arrest or monitoring.

10:36:20

4 That would be all, Your Honor.

10:36:23

5 THE COURT: Do you want to say anything about
6 Mr. Brownback's contention that he's not been provided with
7 any discovery?

10:36:33

8 MR. MCSWEENEY: And Your Honor, that is correct.
9 The State's -- we were coordinating with the federal
10 government as far as the release of discovery. The fact that
11 they have -- and I believe there was, as recently as
12 yesterday there was a detention hearing in federal court on
13 some of the codefendants. It is my understanding that the
14 discovery has not been released to those codefendants.

10:37:00

15 So the State, again, we are aware of our duty,
16 being duty bound to release discovery, and I -- I'm still
17 trying to coordinate with the U.S. Attorney's office to make
18 sure the timing is done correctly, understanding the rights
19 to the defendant.

10:37:23

20 But Mr. Brownback is correct, Your Honor, we
21 have not provided discovery in this matter.

10:37:29

22 THE COURT: Codefendants is Marvin Lee Harris, Jr.;
23 is that correct?

10:37:34

24 MR. MCSWEENEY: Lee Marvin Harris, Jr.

10:37:36

25 THE COURT: Lee Marvin Harris.

10:37:39 1 MR. MCSWEENEY: Lamar Seally.

10:37:40 2 THE COURT: Say again.

10:37:41 3 MR. MCSWEENEY: Lamar Seally. Lisa Hanani.

10:37:49 4 THE COURT: Spell that.

10:37:51 5 MR. MCSWEENEY: H-A-N-A-N-I. Christian Terry. And
6 Your Honor, the -- there was an additional codefendant,
7 actually Calvin Fox, he was from Lee County, and I apologize,
8 Your Honor, going back through my e-mails, or my
9 correspondence with Ms. McFadden and Mr. -- and his name,
10 Your Honor, is Gonzalo, G-O-N-Z-A-L-O, first name, last name
11 Gomez, G.O.M.E.Z. He has also been indicted and is in
12 federal custody.

10:39:10 13 THE COURT: Anything further from the State?

10:39:16 14 MR. MCSWEENEY: No, Your Honor, other than what I
15 had already argued at the prior setting. At a minimum, with
16 the cocaine that was located in the vehicle registered to the
17 defendant at the defendant's residence, he's looking at a
18 mandatory minimum sentence of between no less than 35 to 51
19 months.

10:39:47 20 THE COURT: All right. Did you want to say
21 something else, Mr. Brownback? You looked like you did.

10:39:53 22 MR. BROWNBAC: Your Honor, I kind of do.

10:39:54 23 Judge, paragraph three says that this
24 investigation began in February 2017. They don't have any
25 information they can give to me? They have nothing? We can

1 just hold him for over four months without providing me a
2 single thing? I don't even know how much cocaine was
3 allegedly found, just that some white powder was found. Now
4 we're hearing poundage.

10:40:15

5 Your Honor, the attorney general's office
6 doesn't have a single thing to do with my client. Nothing.
7 They haven't exerted any jurisdiction over my client. They
8 haven't charged him. They haven't indicted him. Why do they
9 have a say about when I get discovery? Or better yet, when
10 my client gets the discovery that's due him? And then,
11 Judge --

10:40:33

12 THE COURT: Do you mean the U.S. Attorney's office?

10:40:36

13 MR. BROWNBACK: Whoever indicted the codefendants.

10:40:37

14 THE COURT: You said the attorney general.

10:40:38

15 MR. BROWNBACK: I apologize, Judge.

10:40:39

16 THE COURT: Well, he's got his hands full with his
17 boss, I believe. Go ahead.

10:40:44

18 MR. BROWNBACK: He does, Your Honor. And then
19 hearing now that there's phone calls and perhaps coming down
20 the road more charges. Judge, we're just not privy to any of
21 this. He is 58 years old. He's not a flight risk. Can we
22 just please get him back to his house so he can help prepare
23 his defense?

10:41:06

24 THE COURT: The defendant may be released upon the
25 posting of a \$25,000 secured bond; further, on the condition

1 that he abide by pretrial electronic house arrest. And as I
2 understand it, one or more bonding companies have that
3 ability, or whatever Ms. Carlson has, or Cameron -- isn't it
4 Ms. Cameron?

10:41:35 5 MR. MCSWEENEY: Yes, Your Honor, Cameron.

10:41:36 6 THE COURT: Ms. Becky Cameron. He's to have no
7 contact directly or indirectly with codefendants Lee Marvin
8 Harris, Jr., Lamar Seally, Lisa, how do you know pronounce
9 her last name?

10:42:01 10 MR. MCSWEENEY: I believe Hanani.

10:42:03 11 THE COURT: H-A-N-A-N-I?

10:42:08 12 MR. MCSWEENEY: Your Honor, I apologize it is M-I --
13 H-A-N-A-M-I, Hanami.

10:42:18 14 THE COURT: See how it's spelled in the search
15 warrant.

10:42:22 16 Last name is spelled H-A-N-A-M-I, Christian
17 Terry, Calvin Fox, Gonzalo Gomez.

10:42:44 18 Your client doesn't work anywhere, does he?

10:42:58 19 MR. BROWNBACK: No, sir, he is a pastor, so he does
20 minister to some people but he's not paid for that.

10:43:06 21 THE COURT: Does he have a need to do that after the
22 7:00 p.m. hour?

10:43:09 23 MR. BROWNBACK: No, sir.

10:43:16 24 THE COURT: Also to observe a curfew, not be away
25 from his residence between 8:00 p.m. and 6:00 a.m.

10:43:28

1

MR. BROWBACK: Thank you, Your Honor.

10:43:29

2

THE COURT: All right.

10:43:34

3

MR. MCSWEENEY: September 4th, Your Honor.

10:43:36

4

THE COURT: September the 4th the D.A. says is the

5

next court date, Mr. Brownback.

10:43:44

6

MR. BROWBACK: I'm sorry, Your Honor?

10:43:45

7

THE COURT: I understand the D.A. said next court

8

date is September 4th.

10:43:49

9

MR. BROWBACK: Thank you, Your Honor. Thank you.

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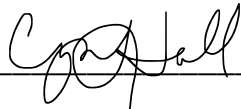
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CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings taken at the July 10, 2018 Session of the Moore County Superior Court is a true and accurate transcript of the proceedings taken by me and transcribed by me. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This the 7th day of October, 2018.



CYNTHIA L. HALL, RPR
Official Court Reporter 19D